

# How to write a Parenting Affidavit



## **What is an Affidavit?**

An affidavit is a written statement of facts that a party or witness to a matter provides to Court. The person that writes the affidavit is called the 'deponent'. In parenting matters, an affidavit is the main way to present evidence to a court. An affidavit must be truthful; you must swear or affirm the truth of the statement just as you would swear or affirm if giving evidence orally in court.

## **Where can I get help writing an Affidavit?**

If, when preparing an affidavit, you need some assistance you should seek legal advice. Such advice is offered through Legal Aid offices, community legal centres or private law firms.

## **Contents of an Affidavit?**

### **What should be included in an Affidavit?**

The affidavit should include all facts that are relevant to your parenting matter and should support the orders you are asking the Court to make in your application or response.

On the first page of your affidavit, you must provide your full name, occupation and residential address, unless disclosing this information would compromise your safety. If you choose not to disclose your residential address, you must provide your address to the Court by email.

The rest of the affidavit should include information about the history of your relationship with the other party, information about your children, why you want the Orders you are seeking, and any other relevant information.

### *Information about your marriage/relationship with the other parent*

#### **Include:**

- the date that your marriage/relationship commenced;
- the date your marriage/relationship ended;
- history of the relationship.

### *Information about the parties' children*

Include:

- your child(ren)'s name(s);
- your child(ren)'s date(s) of birth;
- information about the care of the child(ren) during the relationship;
- information about the care of the child(ren) after separation;
- any past or present risks to the child(ren) or concerns for their safety and welfare, including any involvement by the Department of Children, Youth Justice and Multicultural Affairs (Child Safety); and
- your proposals for future arrangements for your children.

### *Information about the matter*

Include details about all current court orders, including any family violence orders. A copy of any orders should be attached to the affidavit (see information below about attaching documents). If you have applied to the Court for the matter to be listed urgently, explain why the matter is urgent. If you have not gone to family dispute resolution (FDR) and do not have a s 60I certificate, explain why FDR did not occur.

### **What should NOT be included in an Affidavit?**

The affidavit should only include facts, not your beliefs, opinions or views. Avoid referring to facts that are based solely on information received from others. Do not refer to anything said at dispute resolution or to any previous settlement negotiations — this information is confidential and will not be admissible in court.

### **How long should an Affidavit be?**

An affidavit does not need to be lengthy but should include all the **relevant** facts you are relying on as evidence. It is a good idea to keep each paragraph short and focused on one fact only. For most matters, there is a limit of 10 pages per affidavit, plus five annexures.

### **How should an Affidavit be formatted?**

It is easiest to type the affidavit into a Word document. Under the Family Law Rules 2021, the affidavit must be formatted with:

- at least 12-point font size (Times New Roman);
- line spacing of 1.5 lines;
- standard 2.5cm (1 in) margins;
- each page numbered and signed; and
- each paragraph numbered.

It is also a good idea to use headings throughout the affidavit to keep multiple topics and subject matters separate.

Once your draft affidavit is complete, download the proper affidavit form, which is available on the Federal Circuit and Family Court website [here](#), adding in the information from your Word document at 'Part D: Evidence'. Print out the completed affidavit form and prepare it for signing and filing.

### **Can documents be included in an Affidavit?**

You can refer to other documents within your affidavit to back up your statements with further evidence. A copy of each document must be attached to the back of your affidavit. These are known as an annexures or exhibits. If there are multiple annexures, refer to each one by a number or letter (for example, Annexure 1 or Annexure A). Clearly write the annexure's reference number of letter at the top of the first page of each annexure. Annexures should have page numbers starting at page 1 for the first page of the first annexure, running until the last page of the last annexure.

A separate page including an annexure clause is placed before each annexure. The clause should be written as follows:

- *This is the document referred to as Annexure [insert reference number] in the affidavit of [insert deponent's name], sworn/affirmed at [insert place] on [insert date] before me [authorised person to sign and provide name and qualification].*

This statement must be witnessed at the same time as your affidavit to verify the contents of the annexure.

### **Can the Affidavit be changed after it is completed?**

If you want to make any alterations, corrections, cross-outs, or additions to your affidavit, you and your authorised witness must initial each alteration.

### **Signing and Swearing/Affirming an Affidavit**

The bottom of each page of your affidavit must be signed in the presence of an authorised person, such as a lawyer or Justice of the Peace (or, if you are overseas, a Notary Public or Australian Diplomatic/Consulate Officer). Certain details must also be included on the last page:

- the full name of the deponent and their signature;
- whether the affidavit is sworn or affirmed;
- the day and place where the deponent has signed the affidavit; and
- the full name and occupation of the authorised witness and their signature.

### **Filing an Affidavit**

The completed affidavit should be electronically filed in PDF format with the Federal Circuit and Family Court of Australia using the Commonwealth Courts Portal [here](#). The Court has provided some helpful instructions on how to file an affidavit [here](#).

Affidavits can also be filed in-person at the Court registry. Hard-copy documents must be:

- legible and without erasures, blotting out or material disfigurement;
- printed on one side only of white A4 paper; and
- securely bound or fastened/stapled.

You will also need to serve a copy of your affidavit on the other party/parties and keep a copy for your records. Find out more about how to serve a parenting affidavit [here](#).

## Where can I get legal advice?

If you need legal advice about a parenting matter, you can contact BCLS on (07) 3162 3282 to organise an appointment. Our full contact details are below.

*Bayside Community Legal Service acknowledges the traditional owners of the lands across Queensland, and in particular the Quandamooka peoples, the traditional owners of this land where our Bayside community is situated. We pay our respect to Elders past, present and emerging.*

Bayside Community Legal Service

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